

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BLUEFIELD

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 1:23-00109

AUSTIN PANNELL

**MEMORANDUM OPINION AND ORDER**

Pending before the court is the motion of defendant for a continuance of the trial and all pretrial deadlines in this matter. (ECF No. 21.) In support of defendant's motion, counsel for defendant explains that a continuance should provide him with sufficient time to complete his review of the discovery materials, conduct additional investigation, and to discuss the same with the defendant. The government does not oppose a continuance.

Because failure to grant the requested continuance would likely result in a miscarriage of justice, the court finds that the ends of justice outweigh the interest of the defendant and the public in a speedy trial, see 18 U.S.C. § 3161(h)(7)(A), and **GRANTS** defendant's motion to continue. In deciding to grant defendant's motion, the court considered the factors outlined in 18 U.S.C. § 3161(h)(7)(B) and finds that denying the motion "would deny counsel for the defendant . . . the reasonable time necessary for effective preparation, taking into account the exercise of due diligence." Id. § 3161(h)(7)(B)(iv).


Accordingly, the court hereby **ORDERS** as follows:

1. The deadline for the filing of pretrial motions is continued to September 21, 2023;
2. The Pretrial Motions Hearing is continued to October 2, 2023, at 10:30 a.m. in Bluefield;
3. Jury Instructions and Proposed Voir Dire are due by November 7, 2023;
4. Trial of this action is continued to November 14, 2023, at 9:30 a.m. in Bluefield; and
5. Pursuant to 18 U.S.C. § 3161(h)(7)(A), the time from the filing of the motion until the trial is excludable for purposes of the Speedy Trial Act.

The Clerk is directed to send a copy of this Memorandum Opinion and Order to all counsel of record, to the United States Marshal for the Southern District of West Virginia, and to the Probation Office of this court.

**IT IS SO ORDERED** this 17th day of August, 2023.

ENTER:

A handwritten signature in black ink, reading "David A. Faber", is written over a horizontal line.

David A. Faber  
Senior United States District Judge